
SUBSTITUTE SENATE BILL 5702

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Benton, Keiser, Swecker, Kohl-
Welles and Roach)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to notice to certain employees of a claim of
2 exemption from paying unemployment insurance taxes; amending RCW
3 50.44.040; and adding new sections to chapter 50.44 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.44.040 and 1977 ex.s. c 292 s 17 are each amended
6 to read as follows:

7 The term "employment" as used in RCW 50.44.010, 50.44.020, and
8 50.44.030 shall not include service performed:

9 (1) In the employ of (a) a church or convention or association of
10 churches, or (b) an organization which is operated primarily for
11 religious purposes and which is operated, supervised, controlled, or
12 principally supported by a church or convention or association of
13 churches; however, the employer shall notify its employees as required
14 by section 2 of this act; or

15 (2) By a duly ordained, commissioned, or licensed minister of a
16 church in the exercise of his ministry or by a member of a religious
17 order in the exercise of duties required by such order; or

18 (3) (~~Before January 1, 1978, in the employ of a nongovernmental~~

1 ~~educational institution, approved or accredited by the state board of~~
2 ~~education, which is not an "institution of higher education"; or~~

3 ~~(4))~~ In a facility conducted for the purpose of carrying out a
4 program of (a) rehabilitation for individuals whose earning capacity is
5 impaired by age or physical or mental deficiency or injury, or (b)
6 providing remunerative work for individuals who because of their
7 impaired physical or mental capacity cannot be readily absorbed in the
8 competitive labor market, by an individual receiving such
9 rehabilitation or remunerative work; or

10 ~~((5))~~ (4) As part of an unemployment work-relief or work-training
11 program assisted or financed in whole or in part by a federal agency or
12 an agency of a state or political subdivision thereof, by an individual
13 receiving such work-relief or work-training; or

14 ~~((6))~~ (5) For a custodial or penal institution by an inmate of
15 the custodial or penal institution; or

16 ~~((7))~~ (6) In the employ of a hospital, if such service is
17 performed by a patient of such hospital; or

18 ~~((8))~~ (7) In the employ of a school, college, or university, if
19 such service is performed (a) by a student who is enrolled and is
20 regularly attending classes at such school, college, or university, or
21 (b) by the spouse of such a student, if such spouse is advised, at the
22 time such spouse commences to perform such service, that (i) the
23 employment of such spouse to perform such service is provided under a
24 program to provide financial assistance to such student by such school,
25 college, or university, and (ii) such employment will not be covered by
26 any program of unemployment insurance; or

27 ~~((9))~~ (8) By an individual under the age of twenty-two who is
28 enrolled at a nonprofit or public educational institution which
29 normally maintains a regular faculty and curriculum and normally has a
30 regularly organized body of students in attendance at the place where
31 its educational activities are carried on as a student in a full time
32 program, taken for credit at such institution, which combines academic
33 instruction with work experience, if such service is an integral part
34 of such program, and such institution has so certified to the employee,
35 except that this subsection shall not apply to service performed in a
36 program established for or on behalf of an employer or group of
37 employers; or

1 ~~((10) Before January 1, 1978, in the employ of the state or one of~~
2 ~~its instrumentalities or a political subdivision or one of its~~
3 ~~instrumentalities by an individual who is (a) occupying an elective~~
4 ~~office, or (b) who is compensated solely on a fee or per diem basis; or~~

5 ~~(11) Before January 1, 1978, in the employ of the legislature of~~
6 ~~the state of Washington by an individual who is compensated pursuant to~~
7 ~~an agreement which provides for a guaranteed rate of compensation for~~
8 ~~irregular hours worked; or~~

9 ~~(12))~~ (9) In the employ of a nongovernmental preschool which is
10 devoted exclusively to the area of child development training of
11 preschool age children through an established curriculum of formal
12 classroom or laboratory instruction which did not employ four or more
13 individuals on each of some twenty days during the calendar year or the
14 preceding calendar year, each day being in a different calendar week;
15 or

16 ~~((13) After December 31, 1977,))~~ (10) In the employ of the state
17 or any of its instrumentalities or political subdivisions of this state
18 in any of its instrumentalities by an individual in the exercise of
19 duties:

20 (a) As an elected official;

21 (b) As a member of the national guard or air national guard; or

22 (c) In a policymaking position the performance of the duties of
23 which ordinarily do not require more than eight hours per week.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.44 RCW
25 to read as follows:

26 An employer who is exempt under RCW 50.44.040(1) shall post and
27 maintain printed notices to individuals in its employ. These notices
28 shall inform the employees that the employer is exempt from taxes under
29 this title and that the employee will not be eligible for unemployment
30 benefits based on his or her employment with the employer. The notices
31 are to be posted in conspicuous places close to the actual location
32 where personal services are performed.

33 The department shall make the notices required under this section
34 available to employers without charge.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.44 RCW
36 to read as follows:

1 Beginning on the effective date of this section, an employer that
2 is exempt under RCW 50.44.040(1) shall inform each of its employees at
3 the time of hire that the employer is exempt from unemployment
4 insurance coverage. Compliance or noncompliance by an employer with
5 this requirement shall not affect the status of any unemployment
6 insurance claim or potential claim.

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